

days of the expiration of the time period specified in paragraph (b)(3) of this section or as modified at the informal conference held under paragraph (c) of this section.

(e) The State will continue to enforce its approved program unless upon completion of the hearing under paragraph (d) of this section and based upon the review of all available information, including the hearing transcript, written presentations and written comments, the Director finds that the State has failed to implement, administer, maintain or enforce effectively all or part of its approved State program. If the Director finds further that the State has not demonstrated its capability and intent to administer the State program, the Director shall either—

(1) Substitute for the State regulatory authority direct Federal enforcement of all or part of the State program in accordance with paragraph (f) of this section; or

(2) Recommend to the Secretary that he or she withdraw approval of the State program, in whole or in part, in accordance with paragraph (g) of this section. The recommendation shall be accompanied by all relevant information and shall include the reasons for the recommendation.

(f) *Substituted Federal enforcement.* (1) The Director shall give public notice of a finding under paragraph (e) of this section and specify the extent to which the Director is instituting direct Federal enforcement of a State program.

(2) During the period beginning with the public notice and ending when the State satisfies the Director that it will enforce the State program effectively, the Director shall enforce those portions of the State program and any additional regulations that the Office has adopted as necessary to enable the Director to perform his or her duties. To the extent the Director has assumed direct Federal enforcement of the State program, the Director shall—

(i) Enforce any permit condition required under the Act;

(ii) Issue any new or revised permit pursuant to any additional regulation that the Director may promulgate at the time of assumed enforcement; and

(iii) Conduct inspections and issue notices, orders and assessments of pen-

alties as may be necessary for compliance with those permit conditions, the Act and the State program in accordance with subchapter L.

(3) In the case of a State permittee who has met his or her obligations under an existing State permit and who did not willfully secure the issuance of that permit through fraud or collusion, the Director shall give the permittee a reasonable time to conform ongoing surface mining and reclamation operations to the requirements of the Act, before suspending or revoking the State permit.

(g) *Withdrawing approval of State program.* (1) Upon recommending withdrawal of approval of a State program to the Secretary, the Director shall institute direct Federal enforcement in accordance with the requirements of paragraph (f) of this section.

(2) Upon receipt of the Director's recommendation and accompanying information under paragraph (e)(2) of this section the Secretary shall either—

(i) Withdraw approval of the State program in whole or in part if the Secretary finds that failure by the State to administer or enforce part or all of its State program cannot effectively be remedied by substitution of direct Federal enforcement for all or part of the State program, or

(ii) Instruct the Director to continue direct Federal enforcement in accordance with paragraph (f) of this section.

(3) The Secretary shall give public notice of a finding under paragraph (g)(2)(i) of this section, and specify the extent to which approval of a State program is being withdrawn. Not later than the issuance of the notice, the Director shall propose promulgation of, and thereafter promulgate and implement a Federal program for the affected State, in accordance with 30 CFR part 736.

[44 FR 15328, Mar. 13, 1979, as amended at 47 FR 26366, June 17, 1982]

§ 733.13 Factors to be considered in deciding whether to substitute Federal enforcement for State programs or to withdraw approval of State programs.

The record of the State in fulfilling the conditions of the original approval or adjusting to new circumstances, in

accordance with requirements of the Act and this chapter, the hearings transcripts, written presentations and comments shall be considered in evaluating the maintenance, administration, or enforcement of a State program for purposes of determining whether to substitute direct Federal enforcement of the State program or to withdraw approval of part or all of the program.

[44 FR 15328, Mar. 13, 1979, as amended at 47 FR 26366, June 17, 1982]

PART 735—GRANTS FOR PROGRAM DEVELOPMENT AND ADMINISTRATION AND ENFORCEMENT

Sec.

- 735.1 Scope.
- 735.2 Objectives.
- 735.3 Authority.
- 735.4 Responsibility.
- 735.5 Definitions.
- 735.10 Information collection.
- 735.11 Eligibility for program development grants.
- 735.12 Eligibility for administration and enforcement grants.
- 735.13 Submission of estimated annual budgets and allocation of funds.
- 735.14 Coverage of grants.
- 735.15 Amount of grants.
- 735.16 Special provisions for States with cooperative agreements.
- 735.17 Grant periods.
- 735.18 Grant application procedures.
- 735.19 Grant agreement.
- 735.20 Grant amendments.
- 735.21 Grant reduction and termination.
- 735.22 Audit.
- 735.23 Administrative procedures.
- 735.24 Allowable costs.
- 735.25 Financial management.
- 735.26 Reports.
- 735.27 Records.
- 735.28 Disclosure of information.

AUTHORITY: Secs. 201, 501, and 502, Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201).

SOURCE: 42 FR 62706, Dec. 13, 1977, unless otherwise noted. Redesignated at 44 FR 15312, Mar. 13, 1979.

§ 735.1 Scope.

This part sets forth policies and procedures for grants to States to—

- (a) Develop State programs for the regulation and control of surface coal mining and reclamation operations;
- (b) Administer and enforce State programs for the regulation and control of

surface coal mining and reclamation operations; and

(c) Administer cooperative agreements for State regulation of surface coal mining and reclamation operations on Federal lands.

(d) Fund the Small Operator Assistance Program established under section 507(c) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201) and described in part 795 of this chapter.

[42 FR 62706, Dec. 13, 1977. Redesignated at 44 FR 15312, Mar. 13, 1979 and amended at 47 FR 38491, Aug. 31, 1982]

§ 735.2 Objectives.

The objectives of assistance under this part are—

- (a) To assist the States in meeting the costs of administering reclamation and enforcement programs consistent with the Act;
- (b) To encourage the States to build strong reclamation and enforcement programs; and
- (c) To encourage the States to assume jurisdiction over the regulation of surface coal mining and reclamation operations.

§ 735.3 Authority.

Section 705 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201) authorizes the Secretary to make grants to States for developing, administering, and enforcing State regulatory programs.

§ 735.4 Responsibility.

(a) The Director shall administer the State grant program for the development, administration, and enforcement of State programs under this part.

(b) The Director or his authorized designee shall receive, review and approve grant applications under this part.

[42 FR 62706, Dec. 13, 1977. Redesignated at 44 FR 15312, Mar. 13, 1979, and amended at 47 FR 38491, Aug. 31, 1982]

§ 735.5 Definitions.

As used in this part, agency means the State agency designated by the Governor to receive and administer grants under this part.